

Appl. No. : 09/545,658
Filed : April 10, 2000

REMARKS

The February 9, 2007 Final Office Action was based on pending Claims 33–66. No claims are being amended or cancelled by this Response. In view of the remarks set forth below, Applicant respectfully requests reconsideration of Claims 33–66 and submits that Claims 33–66 are in condition for allowance.

SUMMARY OF OFFICE ACTION

The Office Action requested correction of the priority claim in the specification.

The Office Action rejected Claims 33–66 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,865,680 to Briggs ("Briggs") in view of U.S. Patent Application No. 09/894,283 (U.S. Patent No. 6,626,728) to Holt ("Holt") and further in view of U.S. Patent No. 5,114,155 to Tillery et al. ("Tillery") and further in view of U.S. Patent No. 6,371,375 to Ackley et al. ("Ackley").

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Submitted concurrently herewith is a Supplemental Information Disclosure Statement citing seventy-seven (77) references. Applicant respectfully requests the Examiner to consider the pending claims in connection with these references in order to make the references of record.

CORRECTION OF PRIORITY CLAIM

The Office Action noted that the specification appears to refer to the wrong provisional application in its priority claim and requested appropriate correction.

By the foregoing amendment to the specification, Applicant has corrected the priority claim to include a benefit claim under 35 U.S.C. § 119(e) to U.S. Provisional Application No. 60/128,318, filed April 8, 1999. Applicant has also updated the reference to the parent of this continuation-in-part application, which claims benefit of priority under 35 U.S.C. § 119(e) from U.S. Provisional Application No. 60/122,137, filed February 26, 1999.

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Because the present application was filed prior to November 29, 2000, Applicant respectfully submits that the foregoing correction to the priority claim is timely and that no petition or additional fees are required (see M.P.E.P. § 201.11(V)).

CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

The Office Action rejected Claims 33-36 as being unpatentable over combinations of references including Briggs and Holt.

The Office Action, however, has not established a *prima facie* case of obviousness for the rejected claims because Holt is not prior art. In particular, Holt was filed June 27, 2001, and claims domestic priority to U.S. Provisional Application No. 60/214,317, filed June 27, 2000. Thus, the earliest effective filing date of Holt is June 27, 2000.

The present application, however, was filed April 10, 2000, and claims priority from U.S. Provisional Application No. 60/126,318, filed March 26, 1999.

Because the earliest effective filing date of Holt is after the filing date of the present application, Applicant submits that Holt is not prior art to the present claims, and Applicant respectfully requests that the rejection of the present claims be withdrawn.

CONCLUSION

In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain, the Examiner is cordially invited to contact the undersigned such that any remaining issues may be promptly resolved.

Moreover, by the foregoing remarks no admission is made that any of the above-cited references are prior art to the pending claims and/or are properly combinable. Furthermore, Applicant respectfully disagrees with the Examiner's characterization of the cited references and reserves the right to distinguish the substantive content of these references in response to any subsequent Office Action.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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